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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 RAMON MARTINEZ ALCAZAR

11 Plaintiff,

12 v.

13 UNITED STATES OF AMERICA,

14 Defendant.

15 Criminal Case No. 13-cr-1554
16 Civil Case No.: 16-cv-2634

17 **ORDER DENYING MOTION TO
18 VACATE, SET ASIDE, OR
19 CORRECT SENTENCE UNDER 28
20 U.S.C. § 2255 AS MOOT**

21 On October 24, 2016 Petitioner, proceeding *pro se*, filed a motion pursuant to 28 U.S.C.
22 § 2255 to vacate, set aside, or correct sentence by person in federal custody. Shortly after the
23 briefing was completed on the motion, Petitioner was released from custody on December 21,
24 2017. By its terms, section 2255 is applicable only to prisoners in custody. See *United States v.*
25 *Kramer*, 195 F.3d 1129, 1130 (9th Cir. 1999). Accordingly, the Court **DENIES** Petitioner's
26 Motion as moot.

27 **IT IS SO ORDERED.**

28 Dated: January 23, 2019


Hon. M. James Lorenz
United States District Judge